

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MARCUS CHRISTIAN,)	
Movant,)	
)	
v.)	No. 2:21-cv-02466-SHL-atc
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

ORDER DISMISSING MOTION UNDER 28 U.S.C. § 2255

This matter came before the Court on Movant Marcus Christian’s pro se Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 1), filed July 12, 2021. The Government responded on August 18, 2021 (ECF No. 6), and Christian replied on August 31, 2021 (ECF No. 7). Because there is a factual dispute about whether Christian directly requested that his defense counsel file a notice of appeal, the Court must conduct an evidentiary hearing before deciding Christian’s motion. (ECF No. 8 at PageID 49–50.)

Under Rule 8(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts, “[i]f an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A.” A movant seeking relief under § 2255 qualifies for the appointment of counsel whenever “the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(b). To assist in this determination, the Court ordered Christian to file an in forma pauperis affidavit and a copy of his inmate trust fund account statement. (ECF No. 8 at PageID 49–50.)

Christian’s deadline to file the requested documents was September 23, 2024. (Id. at PageID 50.) As of the filing of this Order, Christian has not responded. Without the requested

documents, the Court cannot proceed and must assume Christian has abandoned his motion.

Thus, Christian's motion is **DISMISSED WITHOUT PREJUDICE**. Christian may refile his motion with the requested documents if he wishes to do so.

IT IS SO ORDERED, this 30th day of September, 2024.

s/ Sheryl H. Lipman
SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE